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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,957	11/12/1999	TERRELL B. JONES	07099.1193-0	1078

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EXAMINER

RICE, KENNETH R

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/438,957

Applicant(s)

Jones

Examiner

Kenneth R. Rice

Group Art Unit

3627

**--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--**

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE **3 MONTHS** FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period of response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☒ Responsive to communication(s) filed on 6/19/03.
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-9 & 23-28 is/are pending in the application.  
Of the above, claim(s)        is/are withdrawn from consideration.
- ☐ Claim(s)        is/are allowed.
- ☒ Claim(s) 1-9 & 23-28 is/are rejected.
- ☐ Claim(s)        is/are objected to.
- ☐ Claims        are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on        is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on        is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Status of Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No.       .
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received:       .

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other

### Office Action Summary

### PART III: REASONS FOR REJECTIONS AND OBJECTIONS

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

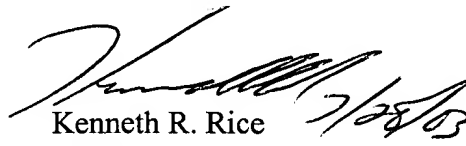
Claims 1-9 and 23-28 are rejected under 35 USC 102(e) as being clearly anticipated by Shkedy.

Applicant's arguments filed June 19, 2003, have been fully considered but they are not deemed to be persuasive. Applicant argues that Shkedy does not provide a proposed item or package or provide a proposed item or package to the user, and that Shkedy requires that the buyer be bound to the purchase of the item or package. Although the main embodiment in Shkedy requires the buyer be bound to the purchase of an item or package, Shkedy discloses several embodiments in which the buyer has the option to reject the offered item or package after the sellers have submitted their bids (for example: column 7, lines 27-42, and column 8, lines 6-14), thus making them a proposed item or package.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Rice at (703) 308-3495. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-1113.

  
Kenneth R. Rice  
Primary Examiner  
Art Unit 3627